

REMARKS

Reconsideration and allowance are respectfully requested.

Claims 1, 3-12, 14, 16-18 and 28-34 are pending. New claims 31-34 are added to include auxiliary patent protection for the recited sequences. Note that claim 3 and 16 require a specific panel of peptides, but that the other claims only require at least one of the peptides selected from the group consisting of the recited sequences or peptide analogues.

Applicants appreciate the courtesy of the Examiner in granting the interview on January 24, 2006. As required by the Interview Summary, the substance discussed was claim amendments that would advance prosecution and put the claims in condition for allowance pending any further searching by the Examiner. Claims 14 and 16 are recited in independent form because the intended use to carry out a method of detecting is not required for patentability and the Examiner does not consider such use to be a positive limitation on the kit claims.

35 U.S.C. 112 – Definiteness

Claims 1, 3-12, 14, 16-18 and 28-30 were rejected under Section 112, second paragraph, as being allegedly "indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." Applicants traverse.

The claims are amended to clarify that the limitation "peptides selected from the group consisting of" the recited sequence identifiers does not include subsequences thereof.

Applicants request withdrawal of the Section 112, second paragraph, rejection because the pending claims are clear and definite.

35 U.S.C. 102 – Novelty

A claim is anticipated only if each and every limitation as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of Calif.*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical

invention must be shown in as complete detail as is claimed. See *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 14 was rejected under Section 102(e) as allegedly anticipated by Andersen et al. (U.S. Patent 5,955,077). Applicants traverse.

While disagreeing with the Examiner's contention that Andersen et al. disclose each and every peptide of at least 12 amino acids in length of SEQ ID NO:2 (see claims 1-4 and 23 of the '077 patent), claim 14 is amended to delete SEQ ID NOS:4 and 7. The remaining peptides of the kit claims are less than 12 amino acids in length.

Withdrawal of the Section 102 rejection is requested because all limitations of the claimed invention are not disclosed by the cited reference.


Conclusion

Having fully responded to all of the pending objections and rejections contained in this Office Action, Applicants submit that the claims are in condition for allowance and earnestly solicit an early Notice to that effect. The Examiner is invited to contact the undersigned if any further information is required.

Respectfully submitted,

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